

**FILED**

**FEB 04 2009**

**PATRICK E. DUFFY, CLERK**  
By \_\_\_\_\_  
**DEPUTY CLERK, MISSOULA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

JERRY O'NEIL,	)	CV 08-91-M-DWM-JCL
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
STATE OF MONTANA, et al.,	)	
	)	
Defendants.	)	
	)	

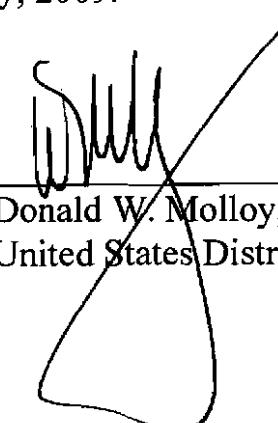
Defendants Majoras and Barnett have filed a motion to dismiss the claims against them and against the Federal Trade Commission and the Department of Justice under Fed. R. Civ. P. 12(b)(1). Plaintiff O'Neil stated that he concurs with the motion, and on that basis United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in which he recommends that the motion to dismiss should be granted.

The parties did not timely object and so have waived the right to de novo

review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000). I can find no clear error with Judge Lynch’s recommendation and therefore adopt it in full.

Accordingly, IT IS HEREBY ORDERED that the Federal Defendants’ motion to dismiss the claims against the Federal Defendants (Doc. No. 22) is GRANTED.

DATED this 4 day of February, 2009.

  
Donald W. Molloy, District Judge  
United States District Court